

Inventor(s): Grillo-Lopez et al.

Appln. No.: 09 436,348

Series Code ↑

Serial No. ↓

Filed: November 11, 1999

Hon. Commissioner of Patents
Washington, D.C. 20231

Group Art Unit 1644

Examiner: Ron Schwadron

Atty. Dkt. P 0275537 1998-30-0524A

M#

Client Ref

Appln. Title: Use of Chimeric Anti-CD20 Antibody As
In Vitro Purging Agent In Patients BMT
or PBSC Transplant

Sir:

REPLY/AMENDMENT/LETTER

Date: August 5, 2002

This is a reply/amendment/letter in the above-identified application and includes the herewith attachment of same date and subject which is incorporated hereinto by reference and the signature below is treated as the signature to the attachment in absence of a signature thereto.

FEE REQUIREMENTS FOR CLAIMS AS AMENDED

1. Small Entity claim

A. ☒ NOT madeB. ☐ WithdrawnC. ☐ made herewithD. ☐ made previously

For B & C
See **Required**
Separate Paper
(Pat-256)

Claims remaining after amendment	Highest number previously paid for	Present Extra	Large/Small Entity	Additional Fee	Fee Code Lg/Sm
2. Total Effective Claims	**minus 0	0	x \$18/\$9 =	+ \$0	103/203
3. Independent Claims	***minus 0	0	x \$84/\$42 =	+ \$0	102/202
4. If amendment enters proper multiple dependent claim(s) into this application for first time (leave blank if this is a reissue application) add			+ \$280/\$140 =	+ \$0	104/204
5. Original due Date: <input type="checkbox"/> NONE					
6. Petition is hereby made to extend the original due date to cover the date this response is filed for which the requisite fee is attached					
(Usable only for ≤ 2mo.OA --- 4 mos)					
(Usable only for 30 day/1mo.OA --- 5 mos)					
7. Enter any previous extension fee paid since above original due date and subtract			- \$0		
8. Extension Fee Attached			+ \$0		
9. If Terminal Disclaimer attached, add Rule 20(d) official fee			+ \$110/\$55		
10. If IDS attached requires Official Fee under Rule 97 (c), add			+ \$180		
or if Rule 97(d) Request add			+ \$180		
11. After-Final Request Fee per rules 129(a) and 17(r)			+ \$740/370		
12. No. of additional inventions for examination per Rule 129(b)			x \$740/370 ea		
13. Request for Continued Examination (RCE)			+ \$740/370		
14. Supplemental Petition to Revive			+ \$1280		
15. <i>Renewed</i>			TOTAL FEE ENCLOSED = \$1280		

16. *If the entry in this space is less than entry in next space, the "Present Extra" result is "0".

17. **If the "Highest number previously paid for" in this space is less than 20, write "20" in this space.

18. ***If the "Highest number previously paid for" in this space is less than 3, write "3" in this space.

Our Deposit Account No. 03-3975)

(Our Order No. 037003 0275537

C#

M#

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficiencies only) now or hereafter relative to this application and the resulting Official Document under Rule 20, or credit any overpayment, to our Accounting/Order Nos. shown above, for which purpose a duplicate copy of this sheet is attached.

This **CHARGE STATEMENT** does not authorize charge of the **issue fee** until/unless an issue fee transmittal sheet is filed.

Query: Is appeal deadline now? If so, file Notice of Appeals separately.

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OFFICE OF PETITIONS

Tel:

Atty/Sec: SXT/af

Intellectual Property Group

By Atty: Samir Elamrani

Sig:

Samir Elamrani

Reg. No. 43,601

Fax: 703-905-2500

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NOTE: File this cover sheet in duplicate with PTO receipt (PAT-103A) and attachments



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

Grillo-Lopez, et al.

Group Art Unit: 1644

Application Serial No. 09/436,348

Examiner: Ron Schwadron

Filed: 11 Novmeber 1999

Title: *USE OF CHIMERIC ANTI-CD20 ANTIBODY AS IN VITRO OR IN VIVO PURGING AGENT IN PATIENTS BMT OR PBSC TRANSPLANT*

* * * * *

RENEWED PETITION TO REVIVE
PURSUANT TO 37 1.137(b) or 37 1.181

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OFFICE OF PETITIONS

Commissioner for Patents
Washington, D.C. 20231

Sir:

This Renewed Petition is in response to the decision mailed June 5, 2002, which was in response to the Applicants' Petition filed February 28, 2002 requesting revival of this application based on Applicants' non-receipt of an Office Action [Restriction Requirement] mailed on February 9, 2001.

As set forth in Applicants' previous Petition to Revive, Applicants did not receive the Restriction Requirement dated February 9, 2001, as it was apparently mailed to Shaw Pittman, the previous firm of the undersigned, and not received by Pillsbury Winthrop until after the application had become abandoned.

Particularly, as set forth in the previous Petition, the first time Applicants learned of Restriction Requirement was upon receipt of the Notice of Abandonment.

In accordance with 37 C.F.R. §1.137(b) the previous Petition to Revive included a response to the Restriction Requirement which is attached hereto.

Also, the previous Petition included a check for the Petition Fee. Applicants herein request that Applicants' deposit account be charged for the Petition Fee under 37 C.F.R. §1.137(2) as set forth in §1.17(m) and authorize that any required additional fees necessary be charged to Applicant's Deposit Account 03-3975.

Applicants further advise that the entire delay in filing the required reply from the due date until the filing of a grantable petition was unintentional.

Also, Applicants respectfully note that a Terminal Disclaimer pursuant to 37 C.F.R. §1.20(d) and §1.137(c) is not necessary as this application was filed after June 8, 1995.

In Applicant's previous Petition, it was explained that the apparent case for non-receipt of the Office Action was the fact that the assignee of this application, IDEC Pharmaceuticals Corporation, had transferred all their prosecution files from Shaw Pitman to Pillsbury Winthrop on November 28, 2000, and that apparently as a result of this transfer the Office Action was never received at the undersigned's new firm Pillsbury Winthrop.

On June 5, 2002, the Patent Office mailed a letter to Pillsbury Winthrop, denying the Petition because of insufficient evidence of non-receipt of the Restriction Requirement mailed on February 9, 2001. Shortly after receipt of this letter, the undersigned, Robin L. Teskin telephoned Mr. William R. Dixon, Jr. and explained that the non-receipt of the Office Action unfortunately could not be established by an affidavit from Shaw Pittman as suggested in the decision as Shaw Pittman did not docket incoming papers received from the U.S. Patent Office and other patent offices around the world for prosecution matters which had been transferred to Pillsbury Winthrop.

Rather, it was explained that Pillsbury Winthrop for the six months after the undersigned Robin L. Teskin joined Pillsbury Winthrop had a procedure in place wherein a courier daily picked up all mail received by Shaw Pittman in connection with pending prosecution matters that related to matters which had been transferred to Pillsbury Winthrop. It was also noted that this amounted to a considerable amount of fax and mail correspondence at least for the first 2-3 months as about 1500-2000 prosecution files were transferred from Shaw Pittman to Pillsbury Winthrop as a result of the undersigned's move from Shaw Pittman to Pillsbury Winthrop.

It was further explained during this same conversation that while Pillsbury Winthrop's U.S. and foreign docket staff diligently reviewed and docketed all incoming mail and prosecution files into their docket system promptly after the transferred files were received in their offices, and further diligently prepared and filed new Power of Attorney forms with the U.S. Patent Office as well as numerous other foreign associates for filing in various foreign patent offices, that unfortunately a change of Power of Attorney was not filed for this application until July 9, 2001 (which was accepted by the USPTO on July 26, 2001).

However, as explained above, this still should not have resulted in non-receipt of the Restriction Requirement as Pillsbury Winthrop had a procedure for diligently (daily) receiving all fax and mail correspondence received by Shaw Pittman until the numerous changes of Power of Attorney forms for the approximate 1500-2000 U.S. and foreign transferred cases were entered. This procedure was still in place in February when the Restriction Requirement presumably should have been received by Shaw Pittman. While Applicants cannot aver to the fact that Shaw Pittman did not receive the Restriction Requirement, Applicants can aver to the fact these procedures were still in place, in particular to take into account the real possibility that (i) some changes of Power of Attorney may not be received or entered into the various applications in sufficient time to ensure that patent office correspondences were timely received in our offices; and (ii) the possibility that some cases may have been inadvertently overlooked with respect to filing of changes of Power of Attorney forms.

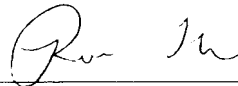
After these facts were discussed with Mr. Dixon, he graciously suggested that an affidavit be submitted by the undersigned attesting to these facts under oath. He further noted that he had recently received a number of similar Petitions to Revive because of non-received correspondence as a result of files being transferred from one firm to another as a result of the move of the responsible attorney to another firm. Accordingly, as suggested, submitted with this Renewed Petition to Revive is an affidavit by the undersigned essentially attesting to the above facts, and affidavit by Margaret Jackson, the head of the Docket Department at Pillsbury Winthrop, along with copies of relevant docket records establishing that the Restriction Response dated February 9, 2001 was not timely received by Pillsbury Winthrop.

Based on the foregoing, and in view of the attached affidavit, grant of the Petition to Revive, and reinstatement of this application to active status is earnestly requested.

Respectfully submitted,

PILLSBURY WINTHROP LLP

Date: August 5, 2002

By: 
Robin L. Teskin
Registration No. 35,030

1600 Tysons Boulevard
McLean, Virginia 22102
(703) 905-2000
(703) 905-2500 Facsimile

Enclosures:

Affidavit of Robin L. Teskin
Affidavit of Margaret Jackson
Docket Reports
Mail Records
Petition Fee
Copy of Response to Restriction Requirement
that was filed on February 28, 2002

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